

LEGISLATIVE UPDATE

COVERING CRIMINAL JUSTICE LEGISLATIVE ISSUES

FALL 2004, No. 20

DEPARTMENT OF PUBLIC ADVOCACY

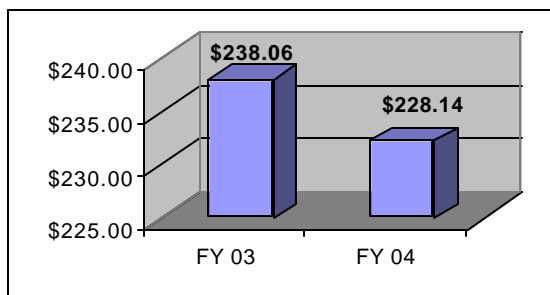
CASELOADS UP AGAIN IN FY 2004

**Richard Chapman,
Information Resources Branch Manager**

In FY 2004, the Department of Public Advocacy (DPA) again worked with limited resources to manage an increase in caseloads. DPA manages measurements in several different ways. The agency pays particular attention to total cases opened, caseloads per attorney, and funding per case. In each of these categories, DPA suffered a downward trend FY 2003 to FY 2004.

The overall caseload for the Department increased from 117,132 in FY 2003 to 131,094 in FY 2004. This is a 12% increase in the total number of cases handled by the Department of Public Advocacy. The overall funding per case in FY 2004 dropped to \$228.14. The funding per case in FY 2003 was \$238.06. This is a decrease of 4.2%.

DPA Funding Per Case: a 4.2% drop in FY 2004



The increase in caseload was most severe for the Trial Division. In FY 2003, the Trial Division handled 115,289 cases. In FY 2004, the Trial Division handled 129,159 cases. This is more than a 12% increase over the previous year.

The caseload per attorney also increased in FY 2004. In FY 2003, the average trial attorney opened 484.3 new cases. In FY 2004, the average trial attorney opened 489.4 new cases. This is an increase of 1.1%. Of that increase, one DPA trial office opened over 600 new cases per attorney in FY 2004. Fifteen more DPA trial offices opened more than 500 new cases per attorney in FY 2004.

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RISE CASELOADS CONTINUE TO THREATEN KENTUCKY PUBLIC DEFENDER SYSTEM

Ernie Lewis, Public Advocate

Richard Chapman has set out well in his article what the numbers were in FY04. He has demonstrated the increasing caseloads particularly at the trial level. DPA believes strongly in the integrity of these numbers, and to me the numbers are staggering and require action.

This is a familiar story to readers of the *Legislative Update*. Since the time of the *Blue Ribbon Group* Report, I have been marking the progress toward fully funding Kentucky's public defender system, and the effect of rising caseloads and declining revenues on meeting that goal. A cursory review of past *Legislative Updates* tells the story over the last several years:

"As a result of additional staff being added to existing offices to cover new counties, and also as a result of a somewhat static crime rate, caseloads per attorney have declined from 475 in FY99 to 420 by FY01, an 11.5% per attorney decrease." *Legislative Update*, November 2001. That same report indicated that 1 office (Paducah) had caseloads in excess of 500, and 10 offices had caseloads in excess of 400. A caseload above 400 per lawyer was viewed as excessive. "[T]he FY03 budget for DPA will remain flat. The 3% reduced budget of FY02 will become the budget for FY03.

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For the Post-Trial Division, the total number of cases assigned in FY 2004 dropped from 1,954 in FY 2003 to 1,935 in FY 2004. The funding per case for the Post-Trial Division, though, decreased from \$2,570 in FY 2003 to \$2,344.49 in FY 2004.

The Post-Trial Division is broken into three branches. The Appeals Branch handles direct appeals; and, in FY 2004, it handled 360 direct appeals. The Juvenile Post-Disposition Branch handled 1,092 cases in FY 2004. The Post-Conviction Branch handled 483 cases. This includes 16 cases by the *Kentucky Innocence Project* which uses DNA testing to prove the innocence of wrongly incarcerated persons. The Post-Trial Division reorganized in FY 2004 for more efficiency. As a result, the division is not making comparisons of caseloads to previous years other than total numbers.

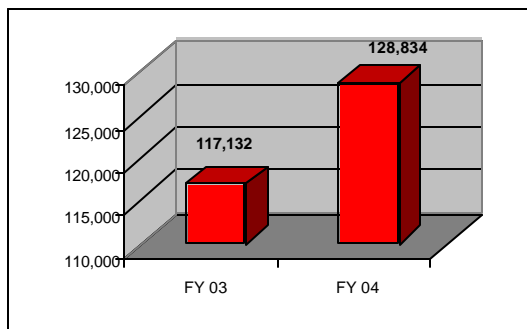
The DPA funding per capita in Kentucky increased in 2004. In FY 2003, the funding per capital was \$6.81. In FY 2004, that number increased to \$7.30 per capita. This represents a 7.2% increase.

The full-time system in Kentucky for Public Defenders neared completion in FY 2004. Of the 129,159 trial division cases handled in FY 2004 by the Department of Public Advocacy, only 376 were contract cases from the two remaining part-time counties. This represents less than .3% of the total DPA trial caseload.

The Trial Division also saw the trend toward more Circuit Court cases stay on a level course in FY 2004. Circuit Court cases require more time of individual attorneys in DPA. In FY 2004, the percentage of Circuit Court cases out of the total DPA trial caseload remained at just over 23%. This still represents a significant increase since 1997 when DPA first tracked that statistic. In FY 1997, the DPA trial caseload included only 16.42% Circuit Court cases.

The number of Juvenile cases handled by the trial division increased again in FY 2004. In FY 2003, the Trial Division handled 16,501 Juvenile trial cases. In FY 2004, that number increased to 18,006 Juvenile cases handled by the trial division. As a percentage of total trial cases, the percentage of Juvenile cases has remained flat for the past two years at 14%. ■

**DPA Caseload – All Divisions:
a 12% increase over FY 2003**



Lewis, continued from page 1

DPA will have to implement numerous efficiencies in order to continue to supply services. DPA has no control over its caseload. Rather, the legal services it supplies are mandated by the Kentucky and United States Constitutions. Caseload went up by 3% in FY01. During the first six months of FY02, caseload has gone up another 3%. This caseload increase in the face of a 3% budget reduction for FY03 will require significant belt-tightening throughout the DPA.” *Legislative Update*, February 2002.

“Public defender caseloads have risen 3% at the trial level in FY01 ending July 1, 2001. In addition, caseloads have risen at an annual rate of an additional 5.9% during the first nine months of FY02. These caseload increases, despite a still-declining crime rate, threaten to overwhelm trial offices where caseloads are already at well over recommended national standards...Even the modest caseload reduction funded by the General Assembly in the 2000 budget has not been realized. In FY01, declining revenues caused the DPA’s budget to be reduced by approximately \$490,000. In FY02, DPA’s \$28 million dollar budget was reduced by \$750,000. As a result, DPA was able to hire only 5 of the 10 caseload reduction lawyers. Thus, what was originally a 35 attorney addition to reduce caseloads has turned into only 5 attorneys who have been placed in the highest caseload offices across the state.” *Legislative Update*, Summer 2002. Six offices were listed as “in crisis” due to having over 500 cases per lawyer.

The headline tells the story in the November 2002 *Legislative Update*. “Significant Caseload Increase, Budget Reduction Threaten Indigent Defense.” 7 offices were listed as “critical,” with over 500 cases per lawyer.

“The Kentucky public defender system is in serious trouble as 2003 begins. Trial level caseloads rose 7% in FY02; they have risen an annual rate of 6% during the first quarter of FY03. 26 positions were not funded in the Governor’s Spending Plan for FY03. DPA’s 3% budget reduction in FY02 became DPA’s base for FY03. Now a 2.6% budget decrease looms for FY03, and 5.2% for FY04. If this occurs, Kentucky’s public defender system will not be able to meet its constitutional mission.” *Legislative Update*, February 2003.

“As of the end of the 3rd quarter [of FY03], 81,822 trial level cases had already been reported. That represents an average caseload of 470 new open cases per lawyer per year.” *Legislative Update*, Summer 2003. 7 offices were listed as critical, above 500 cases per lawyer.

“Kentucky’s caseload crisis in its system of indigent defense continued to worsen last year. Defender caseloads, which were already too high, took another dramatic jump in Fiscal Year 2003. In FY02, the Department of Public Advocacy handled 108,078 [cases] at a cost-per-case of \$252. In a recent report entitled *Defender Caseload Report Fiscal Year 2002-2003* (October 2003), it was shown that the Department’s caseload had risen in FY03 to 117,132, at a

cost-per-case of \$238. This represents an 8.4% increase in overall caseload. It also demonstrates a decline of 7.8% in the funding for each defender case.” *Legislative Update*, December 2003.

Caseloads Continue to Rise in FY04

DPA’s caseloads in FY04 continued the upward swing demonstrated above. Overall cases rose to 131,094, up from 117,132 the previous year. Cases increased by 12% at the trial level in FY04 over FY03. Despite a \$1.5 million Appropriations Increase in November 2003, all of which went toward the hiring of caseload “reduction” lawyers, the average caseload per trial lawyer rose from 484 new open cases per lawyer in FY03 to 489 in FY04.

Funding Per Case Drops

One of the three benchmarks measured by the *Blue Ribbon Group* is that of cost or funding-per-case. This allows one state to compare itself to other states in spending for indigent defense. The *Blue Ribbon Group* found that Kentucky was at the bottom of the barrel on funding per case at \$187 in FY98. By FY02, this figure had risen to \$252. In FY03, funding per case dropped to \$238. And in FY04, Kentucky’s funding per indigent defense case dropped back down to \$228, a 4% decrease. This represents a deterioration in Kentucky’s funding situation. It reflects the effects of a relatively static budget and an increasing caseload.

This situation takes Kentucky back to the time of the *Blue Ribbon Group*. In FY02, Missouri had a cost-per-case of \$384. Georgia had a cost-per-case of \$310. Maryland had a cost-per-case of \$306. North Carolina had a cost-per-case of \$435. West Virginia had a cost-per-case of \$513. Alabama had a cost-per-case of \$719. And Alabama had a cost-per-case of \$603. Kentucky at \$228 per case has clearly sunk back down to the bottom of the nation on this important benchmark.

Sixteen Offices Are Now on the Critical List

The critical list is the highest it has ever been. One office has a caseload that is clearly unacceptable in FY04. Hazard opened 618.

Sixteen offices have caseloads between 500 and 600. Those offices are:

- ◆ Murray—599
- ◆ Henderson—569
- ◆ Paintsville—537
- ◆ Bullitt—536
- ◆ Maysville—542
- ◆ Louisville—531
- ◆ Morehead—526
- ◆ Somerset—526
- ◆ Owensboro—521
- ◆ Boone—504
- ◆ Elizabethtown—519
- ◆ Columbia—513

- ◆ Hopkinsville—508
- ◆ Stanton—505
- ◆ Frankfort—502

In my view, that means over half of our offices, sixteen, are in the “critical” category in terms of caseloads.

Ten Caseload Reduction Lawyers Funded for FY05

The budget for FY05 has not yet been passed. However, the Governor’s Spending Plan includes authorization to spend an additional \$1 million in accumulated revenue. DPA is devoting those additional funds to caseload reduction. This will total \$2.5 million additional funding that DPA has devoted to this problem. The offices where new caseload reduction lawyers will be placed will be:

- ◆ Boone—2 lawyers
- ◆ Bell
- ◆ Murray
- ◆ Maysville
- ◆ Henderson
- ◆ Stanton
- ◆ Paintsville
- ◆ Bullitt

With these additional attorney positions, the average caseload per lawyer will decline to 471, but only if the recent trend upward in overall caseload ends. Unfortunately, if caseloads continue to rise, the new \$1 million infusion will only help us mitigate the effect of rising caseloads.

489 Cases per Lawyer is 185% of National Standards

The universally accepted national standards have remained the same since they were issued by the National Advisory Commission in 1974. Those standards are no more than:

- ◆ 150 felonies, or
- ◆ 200 juveniles, or
- ◆ 200 involuntary commitments, or
- ◆ 400 misdemeanors

DPA’s caseload of 489 includes 23% in circuit court, 14% in juvenile court, and 63% in district court. That translates into a representative caseload of:

- ◆ 112 felonies, which is 74% of the national standard, and
- ◆ 68 juveniles, which is 34% of the national standard, and
- ◆ 308 misdemeanors, which is 77% of the national standard.

Thus, the average DPA trial lawyer is handling 185% of national standards.

There are Not Enough Hours in the Day

Public defenders work approximately 1,875 hours per year. That is 7.5 hours per day for 50 weeks. Even if a defender did not take time to attend training, take holidays, assist her fellow lawyers, read slip sheets, get sick, or the other things every lawyer does in addition to case work, a typical public

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defender has only 3.8 hours to spend on each trial level case. DPA has adopted the NLADA Performance Guidelines. In order to comply with those guidelines, and every Kentucky lawyer's obligation to provide ethical service to clients, most of the following is required in every case:

- ◆ Review of the charges
- ◆ Obtain and review discovery
- ◆ Interview the client
- ◆ Interview witnesses
- ◆ Appear for arraignment
- ◆ Research and write motions
- ◆ Enter a guilty plea or conduct a judge or jury trial
- ◆ Have a sentencing hearing

There clearly are not enough hours of the day for the average Kentucky public defender to provide competent legal services in 489 cases performing all of the above tasks.

The 489 cases include serious felony cases, including capital cases. Many felony cases that go to trial involve 100-300 hours of work. Many capital cases that go to trial require 400-800 hours of work.

Fairness and Reliability of Verdicts is Threatened

Most public defenders become public defenders because they want to help people. They want to represent the least among us and to provide those clients with due process and competent legal services. When caseloads are as high as they presently are in Kentucky, however, neither the client nor the individual public defender is being treated with fundamental fairness. It is unfair to give an indigent accused a lawyer who does not have time to handle his case. It is unfair to assign these public servants, usually a young public defender, so many cases that he does not feel he can competently represent all of his clients.

Kentucky relies upon its public defenders to ensure that when liberty is taken from a citizen, we can rely upon the judgment that took that liberty. Public defenders truly operate as a check on government, to make sure that the police are arresting properly, that prosecutors are charging properly, and that sentences are fair and just. When caseloads are so high that a public defender can only spend 3.8 hours per case, including serious felony cases, Kentucky's public defenders cannot ensure reliability. People will have their liberty taken that should not be in that position. Innocent people will be convicted and sent to prison. That is the reality of the current caseload crisis in Kentucky.

The Ethics of the Lawyers Involved is Implicated

Kentucky is in violation of the ABA's *Ten Principles of a Public Defense Delivery System* (2002). Principle #5 is that "Defense counsel's workload is controlled to permit the rendering of quality representation." Kentucky at present has no mechanism in place to control the caseloads of Kentucky's

public defenders. Public defenders are charged with representing all of the cases assigned by a court. The NAC Standards have been exceeded since I became Public Advocate in 1996. While the General Assembly has been responsive to the calls for increased levels of funding, the funding levels have barely kept up with the rising caseloads.

There are ethical implications involved in this equation as well. The American Council of Chief Defenders Ethics Opinion 03-01 states that a "chief executive of an agency providing public defense services is ethically prohibited from accepting a number of cases which exceeds the capacity of the agency's attorneys to provide competent, quality representation in every case, encompassing the elements of such representation prescribed in national performance standards including the NLADA Performance Guidelines for Criminal Defense Representation and the ABA Defense Function Standards. When confronted with a prospective overloading of cases or reductions in funding or staffing which will cause the agency's attorneys to exceed such capacity, the chief executive of a public defense agency is ethically required to refuse appointment to any and all such cases."

The Promise of the *Blue Ribbon Group* Must be Kept

The *Blue Ribbon Group* set as an interim goal in 1999 for caseload reduction 350 cases in rural offices and 450 cases in urban offices. That was the goal that would be in effect until national standards could be met. The *Blue Ribbon Group* recommended \$11.7 million in new General Fund dollars at 1999 caseload levels as that amount that needed to be placed into the public defender system to meet the caseload goal. The 2000 General Assembly funded that goal partially by placing \$6 million new General Fund dollars into DPA's budget. While additional resources have been made available since that time, those resources have been used to meet rising caseloads. It is time to keep the remainder of the promise of the *Blue Ribbon Group* and fund sufficient attorney positions to take the caseload down to reasonable levels.

DPA Needs 47 Additional Lawyers to Reach 400 Cases Per Lawyer

I believe that the General Assembly should immediately fund DPA to lower caseloads throughout the state to no more than 400 cases per lawyer. If caseloads do not rise in FY05 from the FY04 level, 47 new lawyers would be needed, as well as 16 support staff. This would cost approximately \$3,300,000. This amount is needed immediately if DPA and Kentucky are to meet our fundamental constitutional obligations. ■

DPA INDEPENDENCE PROTECTED BY MEMORANDUM WITH JUSTICE CABINET

Jeff Sherr



Jeff Sherr

On July 9, 2004, the Department of Public Advocacy (DPA) was moved from the Environmental and Public Regulation Cabinet into the Justice and Public Safety Cabinet (Justice Cabinet). Both the DPA and Justice Cabinet recognized the potential conflicts of interest in bringing the Commonwealth's public defender agency into a cabinet with the Kentucky State Police, the Department of Juvenile Justice, the Department of Corrections, the Department of Vehicle Enforcement, the Office of the Chief Medical Examiner, the Office of Drug Control Policy, and the Kentucky Parole Board, among other agencies.

In late June and early July of 2004, the DPA and the Justice Cabinet entered into a Memorandum of Agreement "to address clearly any potential conflicts of interest and other problems that might arise with this transition to a new structure, it has been decided to enter into a formal agreement governing the manner in which conflicts of interest will be avoided." In late August, the DPA and the Justice Cabinet signed an addendum to further clarify the memorandum.

The Memorandum and Addendum address a number of the concerns that arise from this move:

1. The need for law enforcement agencies in the Justice Cabinet to have private discussions and information

The Memorandum recognizes that there may be instances when Cabinet meetings involving law enforcement should take place without a representative of the DPA.

2. The need for an independent indigent defense function

Recognizing that wherever an indigent defense agency is placed in state government there is the potential for conflict the Memorandum states "[r]egulating these potential conflicts is one of the purposes of this memorandum of agreement."

3. How independence of indigent defense will be assured

The Memorandum then provides a list of measures to be taken to protect independence. Below is an abbreviated version of the listing:

- ◆ The Justice Cabinet affirms the importance and guarantees the independence of the indigent defense function in Kentucky's criminal justice system.
- ◆ The Department is "an independent state agency attached to the Justice Cabinet for administrative purposes. The Justice Cabinet recognizes that DPA must operate as an independent state agency, as stated in KRS Chapter 31. Neither this Executive Order nor Memorandum shall void or otherwise alter the intent or language of KRS 31.
- ◆ The Public Advocate is not delineated in the Executive Order as being directly responsible to the Justice Cabinet Secretary, as are other Commissioners in the Cabinet.
- ◆ The Public Advocacy Commission will continue as created in KRS 31.015. This Commission has as one of its statutory duties to "[a]ssist the Department of Public Advocacy in ensuring its independence through public education regarding the purposes of the public advocacy system." KRS 31.015(6)(d).
- ◆ Likewise, the Cabinet pledges not to interfere in any way with the discretion, judgment, or advocacy of employees of the Department of Public Advocacy in their handling of individual cases.
- ◆ The Public Advocate is the appointing authority for the Department of Public Advocacy.
- ◆ The Cabinet recognizes that the Department has a professional obligation under Rule 5.1 of the *Kentucky Rules of Professional Conduct* to ensure that departmental lawyers conform to the Rules.
- ◆ The Department will maintain its own General Counsel.
- ◆ The Cabinet understands and respects the attorney client relationship between the employees of the Department and their clients. The Cabinet will not breach this confidentiality in the exercise of administrative oversight of the Department. The Cabinet will not seek client information from the Department, nor will it use any client information with which it comes into contact.
- ◆ The Department will have control over its information technology equipment and use.
- ◆ The Cabinet will not require the use of a letterhead that communicates to the Department's clients that they are part of the Cabinet.
- ◆ There is no reporting requirement in the Executive Order. The Department agrees to supply "administrative information" to the Cabinet, including budget requests, past personnel disciplinary actions and financial expenditures."

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4. Administrative Relationship

DPA is placed within the Cabinet “for administrative purposes.” The Public Advocate remains the “chief administrator of the Department for Public Advocacy.” KRS 31.020(2).

5. Potential for Lawsuits

The Memorandum recognizes that there will be times in which the DPA’s representation of clients will cause the filing of lawsuits against agencies in the Justice Cabinet or other state government agencies. Such as:

- ◆ Lawsuits filed on behalf of persons with mental illness or mental retardation by attorneys with the Protection and Advocacy Division against state agencies and other providers of services. KRS 31.010(2).
- ◆ Lawsuits filed as part of post-conviction proceedings. KRS 31.110(2)(c).
- ◆ Lawsuits filed by attorneys with the Juvenile Post-Dispositional Branch related to issues involving violations of federal or state statutory rights or constitutional rights. KRS 31.110(4).
- ◆ Lawsuits filed in federal court on matters arising out of or related to actions pending or recently pending in state court. KRS 31.210. These include post-conviction actions initiated by the filing of a petition for a writ of habeas corpus. These may also include Section 1983 actions in capital post-conviction cases in challenging procedures used by the Commonwealth.
- ◆ Lawsuits filed to secure special education remedies for juvenile clients where such remedies are pursued to create less restrict alternatives or lead the court system to divert the case into a civil forum.
- ◆ Civil remedies in non-support cases.
- ◆ Lawsuits to enforce the legal right of prisoners and jail inmates.

Both parties agree to “encourage discussing disagreements with other Justice Cabinet agencies with a goal of resolving disputes between these entities...in advance of filing a lawsuit where possible. This agreement shall not effect DPA’s

independence to prosecute a lawsuit and also recognizes the need for the court system to resolve disputes.”

6. The Protection and Advocacy Division

Unique to Kentucky is the placement of Protection and Advocacy within the indigent defense system. The Memorandum recognizes the federal authority creating and funding this division to carry out its mission.

7. Budget Matters

The memorandum recognizes that the DPA may have to demonstrate to members of the General Assembly what the budgetary needs of indigent defense are. The Cabinet also recognizes that the Public Advocacy Commission has an obligation to “provide support for budgetary requests to the General Assembly.” KRS 31.015(7).

8. The Department’s Public Policy Role

The DPA often “plays a vital role in the public policy making arena, including the legislative process, often being asked to comment on proposed legislation, to propose legislation, to serve on task forces and commissions, and to otherwise lend its expertise on issues relating to public defense and the rights of individuals with disabilities. On occasion, departmental publications such as *The Advocate* and *The Legislative Update* contain matters of public policy. When the Department plays this institutional role, it results in multiple perspectives on issues being offered to legislators and other policy makers, resulting in more informed and superior decision-making by legislators.”

9. The need to establish a good working relationship.

The Memorandum concludes with a statement that despite the need for an adversarial relationship in some instances “efforts will be made to establish a good, civil, and professional working relationship.”

This article provides a summary of the primary points of the Memorandum and Addendum. The complete document can be found on the DPA web page at <http://dpa.ky.gov>. ■

DPA stands to gain by this reorganization. By being placed in the Justice Cabinet, DPA joins most of the other significant parts of the criminal justice system. The Justice Cabinet is run by lawyers who understand the criminal justice system and appreciate the role of public defenders in a fair and reliable system.

- Ernie Lewis, Public Advocate
The Advocate, July 2004

AN INTERVIEW WITH PUBLIC ADVOCATE, ERNIE LEWIS

Q: What do you see as the most important accomplishment made by the DPA since 1996?

A: Our most important accomplishment has been completing the full-time system in Kentucky by doubling our budget over the past 8 years. We had 47 counties served by a full-time office in 1996. Today 118 counties are covered by one of 29 full-time offices. I believe that this has greatly increased the quality and quantity of representation being provided to the indigent accused in Kentucky.

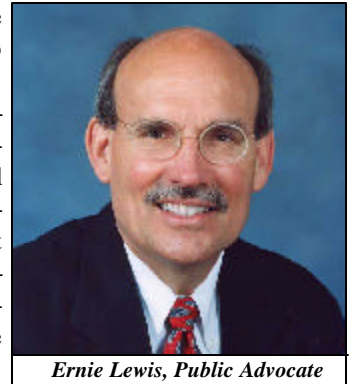
Q: What challenges does the DPA now face?

A: DPA's greatest challenge is that of an increasing caseload. Our trial attorneys now handle 490 new cases per lawyer per year. That is far too many cases to be handled competently. It is 185% of nationally recognized standards. We must do something to lower these caseloads. Another challenge is to handle the specialty courts that are developing without additional funding. Specifically, DPA is participating in drug court and family court, and those courts perform valuable functions. However, DPA has not been given any additional funding to serve the clients in those courts. Our directing attorneys often have no attorney to send to a specialty court due to the other district and circuit courts demanding that an attorney be present to service their docket. A third challenge that we have is to extend the notion of our representation into representing the whole client and their family. The Drug Summit represents a major policy shift in this Commonwealth, from viewing the drug problem as a criminal justice problem to viewing the drug problem as a health problem, from using incarceration primarily to using treatment primarily. Public Defenders can play a major role in this policy shift, but we must have additional funding and a shift in our mindset if we are to play fully the role that we can play.

Q: What are your goals for the next four years?

A: First, I want to complete the full-time system by opening an office in Glasgow to cover Barren and Metcalfe Counties, our last two remaining part-time counties. I also want to split up the Morehead Office, whose coverage area is far too large, by placing an office in Greenup or Carter Counties. Second, I want to lower caseloads to below 400 new cases per lawyer per year. Third, I want to continue to improve the representation that we are providing to our children in juvenile court. Fourth, I want us to build our public defender system into a professional and excellent organization where poor people can come to receive hope and justice. Fifth, I want us to begin to represent the whole client on the many needs that he has and not focus solely on the particular

criminal offense with which he is charged. I want us to develop young public defender leaders in every office in the Commonwealth so that DPA can continue to provide professional and excellent service in the future. Finally, I want us to meet all ten of the ABA's *Ten Principles of a Public Defense Delivery System* before I complete this term.



Ernie Lewis, Public Advocate

Q: Kentucky is often looked to for guidance in the creation of indigent defense systems. How has the DPA been involved in aiding other states?

A: Kentucky is becoming known throughout the country as a system to emulate. Kentucky has long been known as having the best public defender training program in the country, thanks to the legacy of Ed Monahan that is being ably carried on by Jeff Sherr. Many states' public defender systems have learned from Ed and Jeff about how to set up a good training program. Many of our defenders, including Rebecca DiLoreto, Jeff Sherr, Jim Cox, George Sornberger, Bette Niemi, Glenn McLister, and others are regularly invited to educate public defenders at the Dayton Trial Practice Institute, NCDC, and other states' training programs. I have been invited to testify before task forces on indigent defense reform in Georgia, North Carolina, Texas, and most recently in Louisiana.

Q: You were involved in Kentucky's drug summit process. Now that the report has been issued what do you see as the role for the DPA?

A: I hope that DPA can play a prominent role. I wholeheartedly support Governor Fletcher's and Lieutenant Governor Pence's efforts to shift our policy on substance abuse to a health model from a criminal justice model. I believe that we all benefit if treatment is available to those who need it, including those charged with or convicted of crimes as well as those who are crime-free but addicted. Public Defenders have a role to play in assessing our clients' substance abuse needs, crafting alternative sentences, finding treatment placements, and advocating for a more humane disposition of our clients' cases.

Q: *The Innocence Project* and Kentucky's *Innocence Project* have exposed the fact that some innocent defendant's have been wrongfully imprisoned. What, if any, reforms do you see needed in Kentucky? *Continued on page 8*

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A: There are several things that need to be done. First, we need to use available science to put procedures into place to improve our eyewitness identifications. Faulty eyewitness identifications are the primary reason for innocent people to be convicted of crime, and this is a nationwide phenomenon. We need legislation to require that the lineup procedures that are utilized are sequential and led by an officer who does not know who the suspect is. Second, we need to make sure that our public defenders have time to represent

their clients effectively, and that cannot be done without lowered caseloads. The best public defender in the world cannot protect the innocent client if she is overwhelmed with cases. Third, we need legislation requiring videotaped interrogations of persons who are giving confessions, particularly in capital cases. Sadly, there have been numerous reported cases of innocent persons being coerced to give a confessions, including those who landed on death row. Often, these are people with mental retardation. We need to have the best evidence available to juries of what happened when a person confesses to a crime. ■

DPA LEADERSHIP APPOINTMENTS



Ernie Lewis, Public Advocate

Ernie Lewis has been Public Advocate since 1996 and has been reappointed another four-year term.



Jay Barrett

Formerly a Paintsville Assistant Public Advocate, **Jay Barrett** has been appointed Trial Division Director.



Rebecca DiLoreto

Rebecca Ballard DiLoreto has been the Post Trial Division Director since 1997 and has been reappointed another four-year term.



Al Adams

Formerly the Human Resource Manager and then Acting Law Operations Director, **Alfred Adams** has been appointed as the Law Operations Division Director.



Karen Quinn

Karen Quinn was Deputy General Counsel with the Justice Cabinet and has been appointed as General Counsel.



Mike Ruschell

Mike Ruschell has been appointed as the Western Regional Manager and is also the Madisonville Directing Attorney.

Damon Preston, Cynthiana Directing Attorney has been named the Appeals Branch Manager.

Ginger Massamore has been appointed as the Hopkinsville Directing Attorney.

Shannon Means, formerly of Center for School Safety at Eastern Kentucky University, has been named Executive Advisor for the Office of Public Advocate.



Richard Chapman

Richard Chapman has been appointed as Information Resources Branch Manager.



Howe Baker

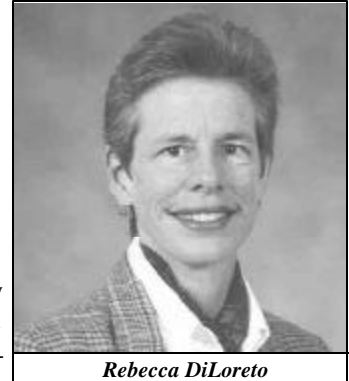
Howe Baker has been appointed as the Paintsville Directing Attorney.

The important thing to recognize is that it takes a team, and the team ought to get credit for the wins and the losses. Successes have many fathers, failures have none.

- Philip Caldwell

DPA CONTINUES TO IMPROVE JUVENILE REPRESENTATION

Rebecca Ballard DiLoreto



Rebecca DiLoreto

In response to an American Bar Association (ABA) report, the DPA has developed a strategic plan to address issues raised in the report regarding the quality of representation of accused youth in Kentucky.

In the fall of 2002, the ABA in partnership with the Children's Law Center of Kentucky, published its findings from a year long study of the quality of representation of children in Kentucky in *Advancing Justice: An Assessment Of Access To Counsel And Quality Of Representation In Delinquency Proceedings*. The study was focused both on the work of public defenders and on the access to counsel provided by the court systems and the Commonwealth to children in Kentucky.

This study was the first in the nation to **re-examine** a public defender system after an **initial** assessment had been done and changes had been instituted. The **first** study of Kentucky's indigent defense system for children was conducted in 1994-95 and published in the fall of 1995. The 1995 study gave direction to the Public Advocate, the legislature and the courts in their efforts to improve access to counsel and the quality of representation for children. This second study spelled out for DPA and stakeholders in the juvenile justice system what advances have been made and what challenges remain to be addressed.

At the beginning of 2003, the Public Advocate appointed a task force to determine the agency response to the report. The task force was staffed with geographically diverse DPA attorneys, social workers, investigators, supervisors and managers.

In 2003, the task force reviewed both studies, met twice, distributed materials from those discussions and made a number of recommendations for agency action. The recommendations covered eleven primary areas. These broad areas include:

- 1) improvements in education;
- 2) the development of juvenile litigation practice standards;
- 3) establishing child advocacy specialists in each region in the Trial Division;
- 4) addressing challenges presented by our new family courts;
- 5) legislative strategies for funding and for the improvement of laws applying to children in status and delinquency proceedings;
- 6) increasing social work staff to assist our juvenile court attorneys;

- 7) fulfilling our responsibility to educate the public about juvenile justice issues;
- 8) improving our recruiting and retention of attorneys committed to youth advocacy;
- 9) growing the Team Child concept (a collaborative approach to advocacy which merges the efforts of civil and criminal lawyers);
- 10) using the ABA study, *Advancing Justice* to promote collaboration with AOC, the courts, the Cabinet for Health and Safety and Mental Health and Mental Retardation.
- 11) provide support and enhancement for the new initiatives that followed the first, 1995 assessment including Team Child, the Juvenile Post Disposition Branch, federal funding for creative advocacy for children and youth, the regional summits and the DPA juvenile listserv. These recommendations will be implemented by DPA over the next four years.

Steps already taken include:

- Attendance of more staff at the American Bar Association National Juvenile Defender Leadership Summit in nearby Nashville.
- The creation of a mentoring program for new DPA attorneys practicing in juvenile court.
- Enhanced efforts to attract new attorneys with an interest in child and youth advocacy
- Implementation of a small federal grant for social workers as critical support to our juvenile defenders in those offices with the most pressing caseloads. This pilot will serve as a model of the improved service public defenders can provide the juvenile justice system when funded at appropriate levels.

After reviewing the ABA Report, Public Advocate Ernie Lewis said, "I hope that all defenders take pride on the immense progress that has been made in the quality of representation of Kentucky's children during the past 6 years. We must take to heart the Findings and Recommendations contained in this ABA Report and make the next 6 years just as productive in improving our system."

With this strategic plan the DPA is taking concrete steps to maintain and continually improve representation of accused youth in Kentucky. To fully realize competent representation of indigent youth caseloads must be decrease as stated in recommendations of the ABA Report:

- Sufficient resources are consistently made available in local trial offices to provide effective assistance of counsel including appropriate training and the availability of support staff with special expertise to assist in representation;
- Caseloads are reduced in all areas of the Commonwealth where they currently exceed the IJA/ABA Standards, with special consideration given to areas with offices covering multiple counties and urban counties with a high number of felony and/or juvenile transfer cases.

The ABA Assessment and assessments of other state's is available on The ABA Juvenile Justice Web Page at <http://www.abanet.org/crimjust/juvjus/assessments.html>

A prior Legislative Update article summarizing the report can be found at <http://dpa.ky.gov/library/legupd/no.16,03/ch3.html> ■

NLADA AMERICAN COUNCIL OF CHIEF DEFENDERS TEN TENETS OF FAIR AND EFFECTIVE PROBLEM SOLVING COURTS

Introduction

“Problem Solving Courts” are spreading across the country. Though the current wave of interest started with the creation of Miami’s Drug Court in 1989, the nation’s courts had a long prior history of seeking to solve the problems of offenders and communities through the imposition of sentences with rehabilitative conditions or indeterminate sentences with a chance for early release based on rehabilitation. The advent of mandatory minimums and determinate sentencing foreclosed many such options, leading to the establishment of Problem-Solving Courts as a new vehicle for effecting established rehabilitative objectives.

There currently are more than 500 drug courts operating, and more than 280 others currently in the planning process, in all 50 states. Although drug courts have existed the longest and been studied the most, “Community Courts,” “Mental Health Courts,” and other specialty courts are beginning to proliferate.

Despite Department of Justice and other publications that urge inclusion of defenders in the adjudication partnerships that form to establish “Problem Solving Courts,” the voice of the defense bar has been sporadic at best. Although defense representation is an important part of the operation of such courts, more often than not, defenders are excluded from the policymaking processes which accompany the design, implementation and on-going evaluation and monitoring of Problem Solving Courts. As a result, an important voice for fairness and a significant treatment resource are lost.

The following guidelines have been developed to increase both the fairness and the effectiveness of Problem Solving Courts, while addressing concerns regarding the defense role within them. They are based upon the research done in

the drug court arena by pretrial services experts and others and the extensive collective expertise that defender chiefs have developed as a result of their experiences with the many different specialty courts across the country. There is not as yet, a single, widely accepted definition of Problem Solving Courts. For the purposes of these guidelines, Problem Solving Courts include courts which are aimed at reducing crime and increasing public safety by providing appropriate, individualized treatment and other resources aimed at addressing long-standing community issues (such as drug addiction, homelessness or mental illness) underlying criminal conduct.

The Ten Tenets

1. **Qualified representatives of the indigent defense bar shall have the opportunity to meaningfully participate in the design, implementation and operation of the court, including the determination of participant eligibility and selection of service providers.** Meaningful participation includes reliance on the principles of adjudication partnerships that operate pursuant to a consensus approach in the decision-making and planning processes. The composition of the group should be balanced so that all functions have the same number of representatives at the table. Meaningful participation includes input into any on-going monitoring or evaluation process that is established to review and evaluate court functioning.
2. **Qualified representatives of the indigent defense bar shall have the opportunity to meaningfully participate in developing policies and procedures for the problem-solving court that ensure confidentiality and address privacy concerns,** including (but not limited to) record-keeping, access to information and expungement.

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3. **Problem solving courts should afford resource parity between the prosecution and the defense.** All criminal justice entities involved in the court must work to ensure that defenders have equal access to grant or other resources for training and staff.
4. **The accused individual's decision to enter a problem solving court must be voluntary.** Voluntary participation is consistent with an individual's pre-adjudication status as well as the rehabilitative objectives.
5. **The accused individual shall not be required to plead guilty in order to enter a problem solving court.** This is consistent with diversion standards adopted by the National Association of Pretrial Services Agencies. See Pretrial Diversion Standard 3.3 at 15 (1995). The standards stress, "requiring a defendant to enter a guilty plea prior to entering a diversion program does not have therapeutic value." *Id.*
6. **The accused individual shall have the right to review with counsel the program requirements and possible outcomes. Counsel shall have a reasonable amount of time to investigate cases before advising clients regarding their election to enter a problem solving court.**

7. **The accused individual shall be able to voluntarily withdraw from a problem solving court at any time without prejudice to his or her trial rights.** This is consistent with the standards adopted by the National Association of Pretrial Services Agencies. See Pretrial Diversion Standard 6.1 at 30 (1995).
8. **The court, prosecutor, legislature or other appropriate entity shall implement a policy that protects the accused's privilege against self-incrimination.**
9. **Treatment or other program requirements should be the least restrictive possible to achieve agreed-upon goals. Upon successful completion of the program, charges shall be dismissed with prejudice and the accused shall have his or her record expunged in compliance with state law or agreed upon policies.**
10. **Nothing in the problem solving court policies or procedures should compromise counsel's ethical responsibility to zealously advocate for his or her client, including the right to discovery, to challenge evidence or findings and the right to recommend alternative treatments or sanctions.** ■

**DEPARTMENT OF PUBLIC ADVOCACY
CELEBRATES THE OPENING OF ITS
BOONE COUNTY AND CYNTHIANA OFFICES**
Shannon Means, Executive Advisor

During the month of September, the Department of Public Advocacy (DPA) celebrated the formal opening of two full-time offices located in its Northern Region. The Boone County Office, which began serving clients on November 1, 2003, provides indigent defense services to a five-county area of the state - Carroll, Gallatin, Grant, Owen and Boone Counties. The office includes seven attorneys, two secretaries and one investigator. The office opened over 3000 cases in its first year of operation.

The Cynthiana Office, which began serving clients in October 2003(???), provides indigent defense services to another five-county area of the state - Harrison, Nicholas, Robertson, Pendleton, and Bourbon Counties. The office staffs four attorneys, one secretary and one investigator/paralegal that cover the five-county caseload. The Cynthiana Office saw average caseloads per attorney rise to 475 in Fiscal Year 2004.

DPA represented over 131,000 citizens last year in Kentucky's trial and appellate courts. During September, DPA also released its annual report of the numbers of cases and clients repre-

sented by public defenders during the last year. Public defenders began FY04 with an average caseload of 484. DPA used additional revenue during FY04 to hire 10 new caseload reduction lawyers and placed them in offices with the heaviest caseloads. Public defenders ended FY04 averaging 489 new cases annually. Despite the hiring of the new caseload reduction lawyers in FY04, the average caseload has risen by 1.1%. DPA's average caseload for its trial attorneys is 185% of the recognized National Advisory Commission's national standards.

Public Advocate Ernie Lewis, said, "The opening of these offices moves us toward our goal of all 120 counties being covered by the full-time office system, a system which provides for increased representation to poor people of this state. I thank the fine private lawyers who have provided public defender services part-time on contract for many years. I am pleased that DPA has only 2 more counties to go before every county in the Commonwealth is served by a full-time public defender's office." ■

DRUG SUMMIT REPORT COMPLETED

Ernie Lewis, Public Advocate

On August 23, 2004, Lieutenant Governor Pence presented the formal *Statewide Drug Control Assessment Summit 2004* to Governor Ernie Fletcher. This ends the process that began in February 2004 of assessing the problem of abuse in this Commonwealth. It begins a larger process of converting the Report into policy and programs and funding.

The Report is an important document for all criminal justice practitioners. It will influence public policy development in this Commonwealth for many years to come. One source of its importance lies in the process used to arrive at the assessment. While many of the usual suspects were included in the Summit, what can be described as a massive effort to be inclusive was undertaken. Over 3000 citizens attended one of the sixteen public meetings. Over 850 in-depth surveys were completed. The Justice and Public Safety Cabinet mostly through the Department of Criminal Justice Training devoted an immense amount of resources to make this effort as rich and meaningful as possible for all concerned.

There is a Shift from Being Tough to Being Effective

Setting policy in a state is not simple. Policy develops over time, is often supported by a number of different constituencies, and has its own reason for being. This Report demonstrates that a distinct policy shift is being undertaken.

This shift began with Governor Fletcher's State of the Commonwealth Address in January 2004. In that address the Governor stated: "We must move beyond just being tough on crime to be effective on crime, and that's not only for those caught in the jaws of addiction, but also for the taxpayer who foots the bill."

This speech by the Governor succinctly states the desired policy shift. In many ways it is at the core of the Drug Summit and the Report that followed.

There is an Equally Significant Shift from a Criminal Justice Model to a Health Model

It makes all the difference how a problem is perceived. In the past, substance abuse has been seen as a criminal justice problem. The thought was that if we declared a "War on Drugs" and invested money into law enforcement, prosecution, and incarceration, that we could win the war. Kentucky, as has virtually the entire nation, has engaged in this war. We have quadrupled the number of persons in our state's prisons. We have arrested and incarcerated many people, more by far than any nation on earth. We have been tough. But the numbers of persons addicted to illegal and legal substances has never been higher. Lives, families, and

communities are being destroyed. And the prison-industrial complex grows ever larger, and takes an ever-increasing portion of our state's financial resources.

The Drug Summit marks a shift from the paradigm of a "War on Drugs." No one is abandoning law enforcement on this issue. Indeed, more money is being spent on law enforcement than ever before.

Rather, an effort is beginning to see the other dimensions of this problem. The Report notes that there is an "epidemic." That is not a criminal justice expression, but rather a public health term. It indicates that the lives of people, the physical and mental lives of our citizens, are declining because of the addiction to alcohol and controlled substances. That is a huge shift. What it means if followed to its logical conclusion is that we must begin to shift money from incarceration to treatment. What it also means is that if treatment really works, the crime rate will eventually drop, and the lives of individuals, families, and communities will improve.

Three Recommendations are to be Implemented Immediately

The Report is organized into three distinct sections. First, there are those action items that can be implemented immediately. Second, there are items that are recommended for consideration by the new Office of Drug Control Policy (ODCP). And third, there are items that were not considered sufficiently for a recommendation and that need further study.

There are three items that are recommended for immediate implementation:

- ◆ The establishment of an Office of Drug Control Policy. This Office, which has been placed in the Justice and Public Safety Cabinet, will report to the Lieutenant Governor and will be responsible for the coordination of substance abuse policy in the Commonwealth.
- ◆ The declaration that substance abuse should be treated as an epidemic. This is intended to elevate substance abuse in the mind of the public and to ensure that it has a high priority in policy discussions. It is also intended to be the consistent theme of the policy conversation.
- ◆ The creation of a Working Group that will have as its mission the transition from the Drug Summit to the Office of Drug Control Policy. This Working Group will include the Lieutenant Governor; a US Attorney; representatives of the following: Cabinet for Health Services, Department for Public Health, Department for Mental Health/Mental Retardation, the Justice Cabinet, the Kentucky State Police, the University of Kentucky, the Kentucky School

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Board Association, the Center for School Safety, the Commonwealth's Attorney's Association, and the Education Cabinet; and legislator representatives including the House Judiciary Chair, the Senate Judiciary Chair, the Senate Health and Welfare Chair, the Senate Education Committee Chair, and the House Education Committee Chair.

Nine Action items

There are nine items that were agreed upon by the Drug Summit, and are submitted as "under consideration for inclusion in policy and are reported as recommended by the Summit." These are the following:

- ◆ A Coordinated Prosecution Initiative. This will be coordinated through the Office of the Attorney General, is intended to support "over-burdened local prosecutors," and will bring "state resources to bear on a local level."
- ◆ Establish Standards for Enforcement Drug Task Forces. There are presently 11 Byrne funded Drug Task Forces, and two others operating in Eastern Kentucky (HIDTA and UNITE). The Report recommends that Task Forces found to be in non-compliance with established standards will be placed on a short-term commitment. The Report recommends that a model for state funded task forces should be created, with Operation UNITE serving as the "template for all awards, oversight and auditing criteria."
- ◆ Promote Treatment Services throughout the State. The universal finding throughout the state was that Kentucky needs more treatment, that it needs to be more widespread geographically, and that it needs to be provided more effectively.
- ◆ Correctional Treatment Works when available. The Report recommends that correctional treatment should be prioritized along with other treatment initiatives.
- ◆ Drug Courts are an effective component of coordinated policy.
- ◆ The Parole Board is an important element of substance abuse policy. Enhancing the role of the Parole Board in the substance abuse effort will require "significant revisions and updates to policies and procedures."
- ◆ Drug related Legislation.
- ◆ The best use of the Kentucky Agency for Substance Abuse Policy will be determined.
- ◆ Excise Tax on Cigarettes. The Report recommends an increase from \$.03 to .09 with revenue going to the priorities of the Governor's substance abuse policy.

Six Items are Recommended for In-Depth Review by ODCP

These items include:

- ◆ Possible expansion of Drug Testing.
- ◆ Coordination of Kentucky Employee Assistance Program with ODCP to make them consistent.
- ◆ ODCP should track and collaborate Local Initiatives.
- ◆ Education/Prevention Findings targeted toward redirecting resources to substance abuse prevention.

- ◆ Exploration of Drug Forfeiture Monies as a way to fund substance abuse related programs.
- ◆ White Paper on Prevention.

Other Observations

Reading through the Report will cause the reader to understand the impressive effort that the Report represents. Some of what caught my eye from the Report is as follows:

- ◆ We have only 1% of the residential clinical treatment beds that are needed.
- ◆ Treatment is cost-effective. For every \$1 spent on treatment, \$4.16 in costs to the criminal justice system is avoided.
- ◆ The Report is packed with excellent recommendations on treatment. The treatment needs across the Commonwealth permeate the substance of the Drug Summit Report. Some of the recommendations on treatment include increasing funding for treatment by \$15-20 million, making available core services within a 35 mile radius, establishing a 24 hour crisis and referral service statewide.
- ◆ Substance abuse treatment is available to only 19% of those leaving prison who need treatment. Worse, only 7% of those in the community on probation and parole in need of treatment have treatment available. This seems to me to be one of our biggest problems. At a minimum, those whose substance abuse problems have resulted in criminality should have the highest priority in terms of making treatment available. An additional concern I have is that there is little mention of the persons in jails being held on Class C or Class D felonies, or those serving misdemeanor time or awaiting trial who are in need of treatment. I believe that this represents a significant population that has unmet treatment needs.
- ◆ Drug Courts are affirmed in the Report. There are presently 59 counties without a drug court. There are only 10 juvenile drug courts.
- ◆ Changes suggested with the Parole Board are going to 2 person panels, and eliminating unnecessary face-to-face parole interviews. One intended outcome to the Parole Board recommendations is the "reduction of nonviolent drug offender population."
- ◆ Statements made in public by people who attended the Drug Summit are included in the Report. This is impressive, adding to the inclusive nature of this effort.
- ◆ I saw several references in the public comment section by public defenders indicating that there was a discriminatory aspect to treatment.
- ◆ I was impressed by the extent to which our public defenders participated in the Drug Summits.

Public Defenders Can Play a Larger Role

Public Defenders in Kentucky do not play a major role at present in attacking the problem of substance abuse. We know the problem well. Our role is confined to defending persons charged with substance abuse. We see the problems of addiction and how the disease is affecting the lives of our clients and their families. We try to identify places

where treatment might help our clients as we put together sentencing plans. We argue for diversion, probation, and probation to an alternative sentencing plan, and often include treatment as a component to this effort. But, as with many things, resources have limited Kentucky public defenders.

The Department of Public Advocacy has tried on many occasions to play a more significant role in this effort. There were efforts in the early 1990s to obtain grant money to hire sentencing workers, and indeed some sentencing workers were hired. However, efforts to have sentencing workers in each public defender offices have failed for lack of funding. At present, DPA has two social workers and several sentencing workers who are remnants of the efforts from the early 1990s. DPA has recently requested the hiring of social workers for the purpose of making assessments of persons with substance abuse and creating a plan for treatment and other life changes. These efforts have also been rejected.

There is an opportunity for public defenders in Kentucky to play a more significant role. Defenders around the country have the following in place:

- ◆ Defenders in Seattle use masters level social workers to make chemical dependency assessments and present a report to the court detailing how their chemical dependency related to the criminal offense.
- ◆ The Connecticut Public Defender's Office hires 40 social workers who work in the different trial offices. These social workers make referrals to treatment programs as well as assessing housing, education, job skill, and other needs the client has. These workers make clinical assessments, obtain and analyze psychological, medical and social histories, provide counseling and crisis intervention to clients and their families, and assist homeless cli-

ents with housing needs. They intervene on substance issues with an in-depth assessment followed by the coordination of referral and placement within a treatment program.

- ◆ The Los Angeles Public Defender's Office uses social workers in their juvenile program. They have hired thirteen psychiatric social workers to conduct psycho-social assessments and develop individual treatment plans.
- ◆ In the Maricopa County Public Defender's Office they have 10 mitigation specialists in their trial division and 4 in their juvenile division who work with clients and their families in preparing client-centered recommendations and dispositions.
- ◆ The Knoxville Public Defender's Office hires 6 social workers who perform traditional social work services with clients and their families, addressing their substance abuse, housing, education, job skills needs. Good outcome measurements have resulted, with reduced recidivism.

Conclusion

I am hopeful. I have been a public defender for 27 years. I have participated in more than my share of revolving doors. I have seen young men with promising lives become addicted to awful substances and come back time and again after having served time in our prisons. I have had many conversations with similarly experienced judges, prosecutors and police officers who know that what we are doing now is not working. The Drug Summit Report appears to acknowledge that. It says we need a change in policy. It says we have an epidemic on our hands, and treatment and prevention and education are going to have to be included in our priorities alongside enforcement. And it says we need to fund all of this. There is room for hope here. ■

BOONE COUNTY OFFICE OPENING



Boone Co. Ribbon Cutting (l-r) Ernie Lewis, Jay Barrett, Rob Riley, John Delaney and Judge Joseph Bamberger



The Boone Co. Staff Members: (l-r) Steve Florian, Eryn Creusere, Graham Smith, Patricia Ball, John Delaney, Matthew Ryan, Rhonda Lause, Paul Flinker, and John Carroll.

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